STATE OF MAINE
PUBLIC UTILITIES COMMISSION

April 30, 2002

ORDER

BANGOR GAS COMPANY, LLC
Request for Approval of Affiliated Interest Transaction with Sempra Energy Trading Company (§707)

Docket No. 2001-707

BANGOR GAS COMPANY, LLC
Proposed Cost of Gas Adjustment (§4703)

Docket No. 2002-83

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

We approve Bangor Gas Company LLC's (Bangor Gas) Cost of Gas Adjustment for the 2002 summer period as updated in its April 16, 2002 filing. In addition, we approve Bangor Gas's April 9, 2002 request for an extension of its affiliated interest contract with Sempra Energy Trading Corp. (SET) to supply Bangor Gas's gas supply needs for the 2002 summer period.

II. PROCEDURAL HISTORY

On February 13, 2002, Bangor Gas filed its proposed cost of gas adjustment (CGA) for the 2002 summer period. The Commission issued a Notice of Proceeding to intervenors in prior CGA cases and by publication in newspapers of general circulation in Bangor Gas's service area. The Office of the Public Advocate filed a timely petition to intervene, which was subsequently granted by the Hearing Examiner.

On March 5, 2002, the Hearing Examiner issued Temporary Protective Order No. 1 protecting Gas Supply Bid, Usage, Facilities, Marketing and Customer Information.

To investigate the proposed CGA changes, the Advisory Staff issued data requests to the Company on its filing. A combined preliminary hearing and technical conference was held on March 27, 2002 at which the Hearing Examiner addressed interventions and set a procedural schedule. In addition, the Company reported on the results of its bidding process and the Advisory Staff and OPA explored the issues raised by this filing.

On April 9, 2002, Bangor Gas filed a request in this docket to approve an amended contract with its affiliate, SET, to supply Bangor Gas's gas supply needs for the 2002 summer period. Bangor Gas stated that it went out to bid and selected its affiliate SET.

On April 16, 2002, the Company filed an updated filing that reflected the April 11, 2002 settlement prices for natural gas futures on the NYMEX market.

III. DESCRIPTION OF BANGOR GAS'S PROPOSED RATE

In this filing, Bangor Gas seeks to establish an estimated cost of gas rate to apply to any customers who take service in the upcoming summer period. Bangor Gas is a start-up gas distribution utility whose gas supply requirements may change daily as customers are added. Bangor Gas does not plan to manage the gas procurement function in-house at this time, consistent with its proposal in all previous CGA periods.

Because its actual gas requirements for the upcoming summer period cannot be forecast with confidence, Bangor Gas plans to contract with a supplier to provide gas at market prices throughout the summer period as those needs arise, similar to the contract entered into during the past winter period. Bangor Gas asserts that the current natural gas futures prices are the best indicators of market prices and, thus, its expected gas costs for the upcoming summer period.

In its initial filing, Bangor Gas filed its schedule for obtaining bids and selecting its gas provider for the summer period. At the March 27, 2002 technical conference, Bangor Gas witnesses Joseph D. Cote and Heidi J. Harnish testified that the Company selected Bangor Gas's affiliate, Sempra Energy Trading Company (SET) to provide gas supply during the summer months. Bangor Gas and SET have amended the existing contract for the 2001-2002 winter period to reflect the new terms of supply service. These terms include price, which is confidential, and an extension of the term of the agreement through the summer 2002 period.

In its testimony, Bangor Gas outlined the components of a "normal" Cost of Gas Adjustment, such as storage, injection or withdrawal capacity charges, balancing fees or charges, carrying costs on gas in storage, consistent with its filed tariff in Docket No. 99-531. However, the rate proposed by Bangor Gas does not reflect many of these components because it does not incur such costs under its supply arrangement with SET. Bangor Gas included a sales forecast for the summer period in its filing but that forecast is dependent on when and if it obtains the estimated new customers.

Using a methodology intended to produce a proxy for market price, Bangor Gas's proposed 2002 summer CGA would increase the energy charge for all classes of customers from the current tariff rate of $0.337 per therm for the winter 2001-2002 period to $0.349 per therm. The new rate is based on projected costs of natural gas in the region based upon an average of futures prices, as reported in the Wall Street Journal on April 12, 2002 for the April 11, 2002 settlement prices, adjusted for additional costs to transport gas supplies to New England. The proposed rate also includes

Bangor Gas's reservation charge paid to Maritimes & Northeast Pipeline (MNE) for capacity on the Veazie lateral and the MNE Veazie Lateral ACA Surcharge.

The ACA surcharge is an annual charge that FERC bills to all companies it regulates to cover the agency's operational costs. This charge is then flowed through to the end-users of the utility product, in this case, Bangor Gas and, ultimately, its customers.

Additionally, Bangor Gas's rates now include a past gas cost adjustment of $(0.03) per therm to reconcile over-collections during the 2001 summer period, as compared to the past gas cost reconciliation rate of $0.005 for the winter 2001-2002 period.

IV. ANALYSIS

Bangor Gas proposes that we set the CGA rate based on the natural gas futures prices as settled on April 11, 2002 and reported in the Wall Street Journal on April 12, 2002 plus an adder representing transport costs. This adder was calculated as the difference between the Tennessee Zone 6 and NYMEX prices for the summer of 2001. [1] Bangor Gas states that this price is a proxy for the forecast commodity price that would be delivered into Bangor Gas's system and is consistent with the terms of its amended contract with SET.

Bangor Gas's current filing raises three issues. First, does the use of an index price in the gas procurement contract and a fixed price in setting the CGA produce reasonable results that send the proper price signals to the customers in Bangor Gas's territory? Second, is the inclusion of the MNE reservation and ACA charges in the proposed CGA rate reasonable and consistent with the terms of the gas supply contract? [2] Third, did Bangor Gas's bid procedures give a fair opportunity to other non-affiliated gas suppliers and should we approve the Bangor Gas/SET contract amendment?

1. <u>Contract Pricing</u>

As we have found in prior CGA proceedings, the continued use of the Tennessee Zone 6 price is both consistent with the terms of the contract for gas supply that Bangor Gas has entered into and a fair estimation of the expected market price given Bangor

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[1] The Tennessee Zone 6 price is the price one would pay for gas taken off the Tennessee interstate system in New England.

[2] Bangor Gas stated in response to Advisor's Oral Data Request No. 2 that it will also bill this cost to its transportation-only customers. We do not address here the legitimacy of Bangor Gas' charges to transportation customers for use of MNE's Veazie Lateral in addition to its transportation rate.

Gas' gas supply arrangement. Moreover, the Company's use of the most recent market prices in setting the CGA rate should allow for the best available price signal to customers.

We note, however, that the magnitude of Bangor Gas's past gas cost adjustment is larger than we would prefer. The danger of accruing large over- or under- collections is the rate and price signal effect on customers in the next like season. It has been our policy to require LDCs with reconciling gas cost adjustment clauses to keep the size of over- or under-collections within a certain percentage range of total gas costs. See *Northern Utilities, Inc. Proposed Cost of Gas Adjustment for the Summer Period May 1, 1998 through October 31, 1998,* Docket No. 98-118 (April 30, 1998) at 2, citing *Northern Utilities, Inc.,* Docket No. 96-079, Order Approving Stipulation (April 26, 1996) at Stipulation paragraphs 7a and 7b (establishes that at any time prior to 75 days from the end of the current CGA period when Company projects a 7% or greater under- or over-collection of total gas costs, Company will file for mid-course correction.)

We require Bangor Gas to submit, within 60 days of this order, a proposal for moderating the accrual of past gas cost reconciliation amounts, either by mid-course adjustment or other means.

2. <u>MNE Veazie Lateral Reservation and ACA Charge to Supply Customers</u>

According to Bangor Gas, the MNE Veazie Lateral reservation charge has been part of the approved rate since Bangor Gas began operation. The ACA charge is new in this period because the FERC bases the rates charges on historical period; this is the first year that historic lateral transportation sales exist upon which to base the charge.

Although the Company is correct that the Commission has approved rates in the past that included the reservation charge, we are not prevented from reviewing the inclusion of any component of a rate at any time, to determine whether it is reasonable. Here, we seek assurance that the lateral charge and associated ACA surcharge are warranted for sales customers.

a. Veazie Lateral charges

Bangor Gas's contract with its supplier (and its RFP) indicates that the price will be for delivery at a specified receipt point. This point is at the MNE mainline where gas enters into MNE's Veazie Lateral. The Veazie Lateral serves as the "last" upstream pipeline link to the Bangor Gas distribution system. Bangor Gas reserves, and pays for pursuant to FERC tariff, transportation capacity on the MNE Veazie Lateral to ensure that it will be able to serve both its gas sales and transportation-only customers. Thus, Bangor Gas incurs the lateral charges as additional upstream pipeline capacity costs for its gas supply customers.[3] All other upstream transportation costs are subsumed in the purchased cost of gas delivered to the specified receipt point. Bangor Gas noted in its response to Advisor's Oral Data Request No. 2 that its tariff allows for the inclusion of reservation charges as a component of the energy charge. Original Sheet No. 31, Sections 5.3 and 5.6. Because this charge is a valid cost of gas, we conclude that Bangor Gas's inclusion of this charge in the energy charge as proposed is reasonable.

b. ACA charges

The MNE tariff shows that the ACA charge is assessed by volume in relationship to service rendered under a FERC tariff.[4] MNE passes the charge through to Bangor Gas which, in turn, passes it along to its gas sales customers as a cost of gas that is related to the use of the Veazie lateral. We find the inclusion of MNE's FERC-assessed ACA charges in the energy charge to be reasonable and approve Bangor Gas's proposal to do so.

3. <u>Bid Procedure and Contract Amendment</u>

The bid procedures were outlined by Bangor Gas in its initial filing and listed more than 20 registered Maine or regional natural gas suppliers that Bangor Gas offered an opportunity to bid for its summer 2002 gas supply contract. As a start-up utility, Bangor Gas's supply needs are neither large nor predictable. We hope that with increasing load size Bangor Gas will attract more bidders for its gas supply needs.

After reviewing *in camera* information regarding Bangor Gas's bidding and selection process, we conclude that Bangor Gas's bid procedure for this period was fair and its selection of SET is reasonable. We would expect the Company to be as diligent in its ongoing searches for gas supply in future periods.

We find reasonable and thus approve the amendment to Bangor Gas's contract with SET, filed on April 9, 2002 pursuant to 35-A M.R.S.A. 707, to allow Bangor Gas to purchase its summer 2002 gas supply from its affiliate.

V. CONCLUSION

Use of a marketer to secure the necessary gas supplies seems reasonable given the early stage of Bangor Gas Company's service and the inherent difficulty in forecasting customer consumption without the benefit of historical usage information.

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[3] Evidently, at least in some instances, Bangor Gas's transportation customers use its reserved capacity on the MNE Veazie lateral to carry their gas supply to Bangor Gas' system and, ultimately, to their service points. Bangor Gas recovers from those transportation customers their portion of the MNE Veazie lateral costs.

[4] Maritimes & Northeast Pipeline, L.L.C. FERC Gas Tariff, First Revised Volume No. 1, First Revised Sheet No. 12 – Rate Schedule MNLFT.

Bangor Gas's use of futures prices plus a transportation adder from an index that is consistent with the index on which its gas supply contract is based is reasonable and produces a reasonable estimate of energy costs for the upcoming summer period. The inclusion of the costs outlined above is reasonable, as is the proposed amendment to the SET contract for the summer 2002 period.

Accordingly, we

O R D E R

1. That Bangor Gas's proposed revised Cost of Gas Adjustment rate of $.0349 per therm shall take effect for gas consumed on or after May 1, 2002;

2. That Bangor Gas's proposed revised past gas cost adjustment of ($0.03) shall take effect for gas consumed on or after May 1, 2002;

3. That Bangor Gas's Seventh Revised Sheet Nos. 48 and 49 constituting its Cost of Gas Adjustment for the period May 1, 2002 through October 31, 2002, filed on April 16, 2002, are approved;

4. That the contract amendment between Bangor Gas and Sempra Energy Trading Corporation is approved; and

5. That Bangor Gas shall report its proposal to moderate accrual of large past gas cost account balances by June 30, 2002.

Dated at Augusta, Maine, this 30th day of April, 2002.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Diamond

COMMISSIONER ABSENT: Nugent

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. <u>Reconsideration</u> of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.

2. <u>Appeal of a final decision</u> of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.

3. <u>Additional court review</u> of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

<u>Note</u>: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.